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| 10/619,258 | 07/11/2003 | Jason R. Kirsch | DFP 2003-1 | 7048 |
| 37138 | 7590 | 02/09/2005 | EXAMINER | |
| THADDIUS J. CARVIS 102 NORTH KING STREET LEESBURG, VA 20176 | | | SHARMA, RASHMI K | |
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3651

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,258

Applicant(s)

JASON KIRSCH

Examiner

Rashmi K. Sharma

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/11/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5 and 24 is/are allowed.
- 6) ☒ Claim(s) 1, 6-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 15-21 and 23 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The belt conveyor, the bucket conveyor, the screw conveyor and the truck positioning indication appear to be critical or essential to the practice of the invention, but included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 12 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 line 7 recites "pivotally attached ramps". It is unclear as to exactly what structure the Applicant is attaching the ramps to within the present application. Further clarification is required.

Claim 1 line 10 recites "when used together, are always connected". It is unclear whether or not the motive power source and the integrated material transfer system must always be connected to each other in order to operate, or if they are capable of

being used independently of one another. The term "when" seems to indicate these two elements are not always used together for operation. The term "connected" appears to be unclear with regard to exactly what elements are being connected. Further clarification is required.

Claim 12 recites "where power to hydraulically fold said platform". It appears as though the term "platform" should be "ramps" instead. Correction is required.

Claim 19 recites "includes multiple screws". It is unclear as to what screws the Applicant is referring to. The drawings and specification do not appear to disclose "screws" associated with the secondary particulate material conveyance device. Did the Applicant intend to recite "multiple screw conveyors"? Further clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Mast et al. (Pub. No. U.S. 2003/0170102 A1).

Mast et al. discloses an integrated particulate material transfer system (130) adapted to be towed and activated by a motive power source (210), the device including an elongated horizontally disposed platform (14, 16) being supported at one end by at least one retractable transport wheel (see Figure 1, 7 and 8) and at an opposite end by

a movable hitch (340, please read [0039]) adapted to be pivotally connected to the motive power source (210) in a non-operational position and the rigid platform (16) resting on the surface of the ground for supporting a particulate material transporting vehicle where the longitudinal axis (running parallel to 140) of the platform (16), ramps (18, 22) being pivotally attached to the horizontal platform (14, 16), the platform (14, 16) being pivotally attached to the motive power source (210) via hitch (340) for moving the particulate material unloading system from one location to another, the platform (14, 16) containing transfer means (140) for receiving and conveying particulate material from the platform (14,16) to a main transfer conveyor (140), wherein the motive power source (210) and the integrated material transfer system (130) when used together are always connected for both operation and transport. The main transfer conveyor (140) being pivotally attached to the platform (16) on the opposite side to which the motive power source (210) is attached to the platform (16) such that the longitudinal axis of the main particulate material conveyance device is substantially aligned with the longitudinal axis of the platform (16), the main transfer conveyor (140) being capable of delivering the particulate material to a holding bin (230) and at least one secondary particulate material conveyance device (see Figures 6 and 8 in pit 14) for transferring the particulate material received by the platform (14, 16) to the main transfer conveyor (140), such that the platform (14, 16) remains connected to the motive power source (210) and the main transfer conveyor (140) where the motive power source (210) provides power required to transport the particulate material unloading system from one location to another and operates both the main and secondary material conveyance

devices (please read [0035]). The platform (14, 16) having upper, lower and side surfaces for receiving and containing the particulate material (see Figure 6), whereby the platform having a semi-open upper surface allowing the particulate material to flow into the platform (14, 16) to the secondary material conveyance device (see Figures 6 and 8), the platform (14, 16) having hydraulically foldable ramps on both sides of the platform wherein the power to hydraulically fold the ramps is provided by the motive power source (210).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-13 and 22 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Mast et al. (Pub. No. U.S. 2003/0170102 A1).

Mast et al. as disclosed above, fails to show the longitudinally axis of the platform coinciding with the direction of travel of the motive power source when the motive power source is moving in a straight line or the platform being made of steel.

It would have been obvious to one having ordinary skill at the time the invention was made to allow the particulate material unloading system (130) to be towed along in the direction of travel of the motive power source, as the towing of the system (130) would be desired at any position behind the motive power source via hitch (340). It also

would have been obvious to provide for a steel platform as they are well known in the art and would also be a matter of design choice.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14 and 18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Mast et al. (Pub. No. U.S. 2003/0170102 A1) in view of Svensson (U.S. Patent number 6,010,280).

Mast et al. as disclosed above, fails to show a screw conveyor.

Svensson discloses a screw conveyor (10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the screw conveyor of Svensson's invention with that of Mast et al.'s invention in order to feed and convey the particulate material in an upward direction for further handling.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3651

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mast et al. (Pub. No. U.S. 2003/0170102 A1) in view of Pomerville et al. (U.S. Patent number 5,297,920).

Mast et al. as disclosed above, fails to show a belt conveyor.

Pomerville et al. does disclose a belt conveyor (16).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the belt conveyor of Pomerville et al.'s invention with that of Mast et al.'s invention in order to feed and convey the particulate material for further handling.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mast et al. (Pub. No. U.S. 2003/0170102 A1) in view of Guttinger et al. (U.S. Patent number 5,127,514).

Mast et al. as disclosed above, fails to show a bucket conveyor.

Guttinger et al. does disclose a bucket conveyor (10 and 11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the bucket conveyor of Guttinger et al.'s invention with that of Mast et al.'s invention in order to feed and convey the particulate material from one area to another by grouping and conveying the material in buckets for further handling.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mast et al. (Pub. No. U.S. 2003/0170102 A1) in view of Michalak (U.S. Patent number 5,292,238).

Mast et al. fails to disclose a paddle conveyor.

Michalak does disclose a paddle conveyor (46).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the paddle conveyor of Michalak's invention with that of Mast et al.'s invention in order to feed and convey the particulate material by grouping the material into sections while further conveying the material for further handling.

Allowable Subject Matter

Claims 2-5 and 24 have been allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 2 is allowable over the prior art of record because the teachings of the prior art taken as a whole do not show or render obvious the structural limitation of an integrated mobile unloading and conveying device for particulate material adapted to be towed and activated by a power source, the device comprising a platform being supported at one end by a pair of retractable wheels and at an opposite end by a hingedly connected hitch adapted to be mounted to the power source and wherein in operation the hitch is raised at its forward end and the transport wheels are retracted, the platform is in an operating unloading position adapted to receive and convey particulate material and when the transport wheels are extended the hitch is lowered at its forward end wherein the device can be transported to another location such that a remote end of the main conveyor can be positioned to discharge its contents into a desired storage facility, in combination with the rest of the recited structure.

The closest prior art of record, Stewart et al. (U.S. Patent number 5,964,566) discloses a portable drive-over hopper similar to that of Applicant's invention. However, Stewart et al. fails to show a material transfer system activated by a power source via a hitch whereby the device allows for the conveyance of particulate material to be conveyed through the device while the power source activates the conveyance of the material and the movement of the device from one location to another at the same time. Stewart et al. discloses an elevator drive system (20) that is not connected directly to the hitch.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 703-306-5952. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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